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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

HEIDI JOHNSON,

Plaintiff,

v.

LTD FINANCIAL SERVICES, LP,

Defendant

Case No.

COMPLAINT

DEMAND FOR JURY TRIAL

COUNT 1: Fair Debt Collection
Practices Act, 15 USC 1692 et seq.

COUNT 2: Rosenthal Fair Debt
Collection Practices Act, Cal. Civ.
Code 1788 et seq.

INTRODUCTION

1
2 1. This is an action for damages brought by Heidi Johnson
3
4 (hereinafter "Plaintiff"), an individual consumer, for violations by LTD
5 Financial Services, LP (hereinafter "Defendant") of the Rosenthal Fair
6 Debt Collection Practices Act, Cal Civ Code §1788, et seq. (hereinafter
7 "RFDCPA") and the Fair Debt Collection Practices Act, 15 U.S.C. §1692,
8 et seq. (hereinafter "FDCPA"), both of which prohibit debt collectors from
9 engaging in abusive, deceptive, and unfair practices.
10
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12 2. In Calif. Civil Code § 1788.1 (a)-(b), the California Legislature
13
14 made the following findings and purpose in creating the Rosenthal Act:

15 (1) The banking and credit system and grantors of credit to
16 consumers are dependent upon the collection of just and owing
17 debts. Unfair or deceptive collection practices undermine the
18 public confidence which is essential to the continued
19 functioning of the banking and credit system and sound
20 extensions of credit to consumers.
21

22 (2) There is need to ensure that debt collectors and debtors
23 exercise their responsibilities to another with fairness and
24 honesty and due regard for the rights of the other.
25 It is the purpose of this title to prohibit debt collectors from
26 engaging in unfair or deceptive acts of practices in the
27 collection of consumer debts and to require debtors to act fairly
28

1 in entering into and honoring such debts, as specified in this
2 title.

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4 3. In 15 U.S.C. 1692, the United States Congress made the
5 following findings and purpose in creating the Fair Debt Collection
6 Practices Act:
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8
9 (a) There is abundant evidence of the use of abusive,
10 deceptive, and unfair debt collection practices by many debt
11 collectors. Abusive debt collection practices contribute to the
12 number of personal bankruptcies, to marital instability, to the
13 loss of jobs, and to invasions of individual privacy. ...

14
15 (e) It is the purpose of this title to eliminate abusive debt
16 collection practices by debt collectors, to insure that those debt
17 collectors who refrain from using abusive debt collection
18 practices are not competitively disadvantaged, and to promote
19 consistent State action to protect consumers against debt
20 collection abuses.

21
22 4. Plaintiff makes the allegations below on information and belief,
23 with the exception of those allegations that pertain to a plaintiff, or to a
24 plaintiff's counsel, which Plaintiff alleges on personal knowledge.

25
26 5. While many violations are described below with specificity, this
27 Complaint alleges violations of the statutes cited in their entirety.
28

JURISDICTION & VENUE

6. Jurisdiction of this Court arises under 28 U.S.C. § 1331, 15 U.S.C. § 1692k(d), 47 U.S.C. § 227, and pursuant to 28 U.S.C. § 1367 for pendent state law claims, which are predicated upon the same facts and circumstances that give rise to the federal causes of action. Injunctive relief is available pursuant to the TCPA.

7. This action arises out of Defendant's repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), the Rosenthal Fair Debt Collection Practices Act, CAL CIV CODE § 1788 et. seq., ("RFDCPA"), in their illegal efforts to collect a consumer debt.

8. Venue is proper in this District because the Defendant may be found in this District, and some of the acts and transactions occurred in this District.

PARTIES & DEFINITIONS

9. Plaintiff, Heidi Johnson, is a natural person residing in Orange County in the state of California.

10. Plaintiff, as a natural person allegedly obligated to pay a consumer debt to Defendant, alleged to have been due and owing, is therefore both a "consumer" as that term is defined by 15 U.S.C. §

1 1692a(3) of the FDCPA, and is also therefore a “debtor” as that term is
2 defined by California Civil Code § 1788.2(h) of the Rosenthal Act.

3
4 11. At all relevant times herein, Defendant, LTD Financial
5 Services, LP, was a company engaged, by use of the mails and telephone,
6 in the business of collecting a debt from Plaintiff which qualifies as a
7 “debt,” as defined by 15 U.S.C. §1692a(5), and a “consumer debt,” as
8 defined by Cal Civ Code § 1788.2(f).
9
10

11 12. Defendant is a national debt collection company that
12 continuously and systematically engages in its business of collecting debts
13 in the state of California, and using telephone numbers within California.
14 Defendant is a “debt collector” as that term is defined by 15 U.S.C. §
15 1692a(6) and Cal. Civ. Code § 1788.2(c).
16
17

18 13. Defendant maintains a registered agent, Corporation Service
19 Company, and may be served through their registered agent at 2710
20 GATEWAY OAKS DR STE 150N, Sacramento, CA 95833.
21

22 14. Upon information and belief, Defendant was attempting to
23 collect on a debt that originated from monetary credit that was extended
24 primarily for personal, family, or household purposes, and was therefore a
25 “consumer credit transaction” within the meaning of Calif. Civil Code §
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1 1788.2(e) of the Rosenthal Act, as well as a “debt” as that term is defined
2 by 15 U.S.C. § 1692a(5).

3
4 15. Because Plaintiff is a natural person allegedly obligated to pay
5 money to Defendants arising from what Plaintiff is informed and believes
6 was a consumer credit transaction, the money allegedly owed was a
7 “consumer debt” within the meaning of California Civil Code § 1788.2(f) of
8 the Rosenthal Act.
9

10
11 16. Plaintiff is informed and believes that Defendant is one who
12 regularly collects or attempts to collect debts on behalf of themselves or
13 others, and is therefore a “debt collector” within the meaning of Calif. Civil
14 Code § 1788.2(c) of the Rosenthal Act, and thereby engages in “debt
15 collection” within the meaning of California Civil Code § 1788.2(b) of the
16 Rosenthal Act, and is also therefore a “person” within the meaning of
17 California Civil Code § 1788.2(g) of the Rosenthal Act.
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22 **FACTUAL ALLEGATIONS**

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24 17. At various and multiple times prior to the filing of this complaint,
25 including within the one year preceding the filing of this complaint,
26 Defendant contacted Plaintiff in an attempt to collect an alleged
27 outstanding debt.
28

1 18. On or about 2/16/2015, Defendant called Plaintiff on her phone
2 regarding the alleged debt owed. In that conversation, Plaintiff advised
3 Defendant directly that she had hired an attorney to represent her on her
4 financial matters, provided the name of her attorney (Michael Jones), and
5 his contact information, to include his phone number. Plaintiff specifically
6 and directly indicated that all communication relating to her financial affairs
7 would need to be limited to her attorney.
8

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11 19. In response to Plaintiff's statement that she was represented
12 by an attorney, and that they should speak with him exclusively, Defendant
13 continued the contact and communication with Plaintiff by repeatedly
14 asking Plaintiff about her financial affairs, her social security number, date
15 of birth, and her address. Plaintiff thereafter advised that Defendant
16 needed to speak with her attorney. Defendant still continued the
17 communication further and engaged in conduct the natural consequence
18 of which is to harass, oppress, and abuse the Plaintiff, specifically by
19 questioning her about personal contact information and financial affairs.
20 Plaintiff, becoming increasingly uncomfortable and intimidated by the
21 conversation, again advised that she was represented by an attorney, and
22 Defendant would need to speak with him. Nevertheless, Defendant
23 continue to question the Plaintiff about why she was filing a bankruptcy
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1 case, and other questions about her financial affairs, with full and actual
2 knowledge that she was represented by an attorney, as well as actual
3 knowledge of his contact information.
4

5 20. Defendant's repeated questioning about the financial affairs of
6 the Plaintiff while attempting to collect the alleged debt constitutes
7 harassment, oppression, and abuse under the circumstances.
8

9 21. Defendant's conduct violated the FDCPA and the RFDCPA in
10 multiple ways, including but not limited to:
11

- 12 a. Engaging in conduct the natural consequence of which is to
13 harass, oppress, or abuse Plaintiff (FDCPA §1692d));
14
15 b. Communicating with Plaintiff directly after the debt collector
16 knew the consumer was represented by an attorney with
17 regard to the alleged debt, when the Defendant also either had
18 knowledge of the attorney's name and address or was able to
19 readily ascertain the information (FDCPA §1692c(a)(2));
20
21

22 22. As a result of the above violations of the FDCPA and the
23 RFDCPA, Plaintiff suffered and continues to suffer injury to Plaintiffs
24 feelings, personal humiliation, embarrassment, mental anguish and
25 emotional distress. Plaintiff attempted to seek counseling and therapy for
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1 the emotional distress and mental anguish described above but was not
2 able to.

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4 23. Defendant is liable to Plaintiff for Plaintiffs actual damages,
5 statutory damages, and costs and attorney's fees.
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8 **CAUSES OF ACTION**

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10 **COUNT I:**

11 **VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT**

12 24. Plaintiff reincorporates by reference all of the preceding
13 paragraphs.
14

15 25. The foregoing acts and omissions of Defendant and its agents
16 constitute numerous and multiple violations of the FDCPA including, but
17 not limited to, each and every one of the above-cited provisions of the
18 FDCPA, 15 U.S.C. § 1692 et seq., with respect to Plaintiff.
19

20
21 26. To the extent that Defendant's actions, counted above, violated
22 the FDCPA, those actions were done knowingly and willfully.
23

24 27. As a result of Defendant violations of the FDCPA, Plaintiff is
25 entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory
26 damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. §
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1 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15
2 U.S.C. § 1692k(a)(3), from Defendant.

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5 **COUNT II:**
6 **VIOLATION OF ROSENTHAL FAIR DEBT COLLECTION PRACTICES**
7 **ACT**

8 28. Plaintiff reincorporates by reference all of the preceding
9 paragraphs.
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11 29. To the extent that the Defendant's actions, counted above,
12 violated the FDCPA, they are necessarily violations of the California
13 Rosenthal Act via Calif. Civ. Code 1788.17.
14

15 30. Defendant's conduct as described herein violated the RFDCPA
16 § 1788.17 which mandates that every debt collection collecting or
17 attempting to collect a consumer debt shall comply with the provisions of
18 Sections 1692d to 1692j, and shall be subject to the remedies in Section
19 Sections 1692d to 1692j, and shall be subject to the remedies in Section
20 1692k of Title 15 of the United States Code statutory regulations contained
21 within the FDCPA, 15 U.S.C. § 1692d and § 1692d(5).
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23 31. As a result of the Defendant's illegal conduct, Plaintiff has
24 suffered emotional distress and mental anguish.
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1 32. Defendant is liable to Plaintiff for actual damages, statutory
2 damages, punitive damages (if the evidence at trial so warrants), actual
3 costs, and attorneys' fees, under the RFDCPA.
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6 **PRAYER FOR RELIEF**
7

8 WHEREFORE, Plaintiff respectfully prays that judgment be entered
9 against the Defendant as follows:
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11
12 **COUNT 1:**

13 **Fair Debt Collection Practices Act**

- 14 a) for an award of actual damages pursuant to 15 U.S.C. §
15 1692k(a)(1) against Defendant and for Plaintiff;
16
17 b) for an award of statutory damages of \$1,000.00 pursuant to
18 15 U.S.C. §1692k(a)(2)(A) against Defendant and for
19 Plaintiff;
20
21 c) for an award of costs of litigation and reasonable attorney's
22 fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendant
23 and for Plaintiff;
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25 d) and such further relief as the Court deems just and proper.
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COUNT 2:

Rosenthal Fair Debt Collection Practices Act

- a) For an award in favor of Plaintiff and against Defendant pursuant to the RFDCPA for Plaintiff's actual damages in an amount according to proof;
- b) For an award of statutory damages for willful and negligent violations of the RFDCPA in an amount not less than \$1,000.00;
- c) For an award of Plaintiff's costs incurred in this litigation pursuant to the RFDCPA;
- d) For an award of Plaintiff's reasonable attorney's fees pursuant to the RFDCPA;
- e) And such further relief as the Court deems just and proper.

Dated this 3 November 2015.

M Jones and Associates, PC
Attorneys for Plaintiff



Michael Jones

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JURY DEMAND

Pursuant to the Seventh Amendment to the Constitution of the United States of America, and Fed.R.Civ.P. 38, Plaintiff is entitled to, and demands, a trial by jury.

Dated this 3 November 2015.

M Jones and Associates, PC
Attorneys for Plaintiff



Michael Jones

VERIFICATION OF COMPLAINT AND CERTIFICATION

Pursuant to 28 U.S.C. § 1746, Plaintiff Heidi Johnson, having first been duly sworn and upon oath, verifies, certifies, and declares as follows:

1 exhibit that may be attached hereto, except that some of the attached
2 exhibits may contain some of my own handwritten notations.

3
4 I declare under penalty of perjury that the foregoing is true and correct.

5
6 Executed on

Oct 26 2015
Month Day Year

7
8
9 Heidi Johnson
10 Signature